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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,417	09/23/2003	Thomas K. Sciurba	H10188/DPS	2029
1333	7590	01/12/2006	EXAMINER	
BETH READ PATENT LEGAL STAFF EASTMAN KODAK COMPANY 343 STATE STREET ROCHESTER, NY 14650-2201			MORRISON, THOMAS A	
			ART UNIT	PAPER NUMBER
			3653	

DATE MAILED: 01/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/668,417

Applicant(s)

SCIURBA ET AL.

Examiner

Thomas A. Morrison

Art Unit

3653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 October 2005.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
4a) Of the above claim(s) 5-23 and 25 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-4 and 24 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 9/19/2005.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Newly submitted claim 25 is directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: (1) the non-withdrawn claims 1-4 and 24 are directed to determining a distance of a platform relative to a feedhead and switching to another sheet supply based on such distance, or determining a stack position and controlling sheet feeding in response thereto. On the other hand, newly added claim 25 is directed to determining an optimal time to switch from one sheet supply to another sheet supply based on a number of parameters. As such, new claim 25 is directed to an invention that is distinct from the originally claimed invention set forth in claims 1-4 and 24.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 25 is withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is confusing because it appears to have conflicting limitations. Claim 1 recites determining a **distance** of a platform relative to a feedhead **corresponding to a predetermined number of sheets** that is greater than zero to be left in a sheet supply, **the sheets resting upon the platform**; and then claim 1 recites switching to another sheet supply when the platform is the distance from the feedhead thereby leaving the predetermined number of sheets in the sheet supply, and finally recites that **the predetermined number remains unchanged regardless of a sheet thickness**. The two **bolded** limitations appear to conflict. In particular, each sheet has a certain thickness and the distance of the platform relative to the feedhead corresponds to the number of sheets to be left in the sheet supply. As such, it appears that the distance of the platform relative to the feedhead would be affected by the total thickness of the sheets that are on the platform. If, in fact, the predetermined number remains unchanged regardless of a sheet thickness, it is unclear how you can know that a **predetermined number** of sheets are **left** in the supply **when the platform is** located **at the distance**? In other words, it is unclear how such distance does not limit the sheets left in the sheet supply to only a few very thick sheets, and does not result in many very thin sheets being left in the sheet supply when the platform is at the distance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 24 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,815,725 (Kanaya) (cited in applicant's 9/19/2005 IDS).

Regarding claim 24, column 4, line 47 to column 5, line 7 discloses a method for controlling sheet stack advancing (i.e., advancing a tray 14), comprising:

determining stack position (i.e., determining the position of tray 14 via a number of pulses of an encoder) corresponding to a predetermined number of sheets, that is greater than zero, remaining in a sheet supply (e.g., 20 remaining sheets in column 5, line 2 and column 5, line 50) to indicate a paper low nominal value; and

controlling sheet feeding in response thereto. See, e.g., column 5, lines 3-7 and column 5, lines 48-51 for an explanation of how the operation is stopped.

Allowable Subject Matter

4. Claims 1-4 would be allowable if the rejection under 35 U.S.C. 112, second paragraph is overcome.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas A. Morrison whose telephone number is (571) 272-7221. The examiner can normally be reached on M-F, 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on (571) 272-6951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


KATHY MATECKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600